

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

In re Patent Application of:	)	
FLICK	)	Examiner: B. SWARTHOUT
	)	
Serial No. 10/648,931	)	Art Unit: 2636
	)	
Filing Date: AUGUST 27, 2003	)	Attorney Docket No. 58178
	)	
For: VEHICLE SECURITY DEVICE HAVING	)	
PRE-WARN FEATURES AND RELATED	)	
METHODS	)	
_____	)	

REQUEST FOR REHEARING  
UNDER 37 C.F.R. §41.52

Mail Stop Request For Rehearing  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Appeal of the Board of Patent Appeals and Interferences (Board) of February 14, 2008, Appellant respectfully requests a rehearing before the Board pursuant to 37 C.F.R. §41.52. As a preliminary matter, Appellant thanks the Board for the careful and thorough examination of the present application and the relevant record, and for properly reversing the unfavorable decision by the Examiner. Based on the arguments presented below, Appellant requests the Board reconsider and withdraw the new grounds of rejections entered in the Decision on Appeal.

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**I. THE BOARD HAS OVERLOOKED THE ADVANTAGES OF THE CLAIMED INVENTION**

As an initial matter, Appellant respectfully notes to the Board that 116 U.S. patents have issued that list him as an inventor. Indeed, eight of these patents belong in the same art classification as the present application.

Appellant submits that the claimed invention, for example, in Claim 1, recites a pre-warn emulator for generating a signal on the vehicle data communications bus responsive to the pre-warn vehicle security sensor so that the alarm controller causes the alert indicator to generate an emulated pre-warn indication different from the alarm indication. As discussed at paragraphs 8, 10, 40, and 49 of the present application, the claimed invention advantageously permits pre-warn features to be installed into a vehicle without replacing the existing vehicle security system. This is highlighted by the recitations of the corresponding method independent Claim 23, which is directed to a method for upgrading a vehicle security system in a vehicle.

More specifically, since the claimed invention includes a pre-warn vehicle security sensor and a pre-warn emulator for generating signals on the data communications bus, the pre-warn vehicle security device of the claimed invention provides an emulated pre-warn indication different from an existing alarm indication without modifying the existing alarm system indicator. Indeed, dependent Claim 4, for example, recites the pre-warn emulator, responsive to the pre-warn vehicle security sensor, generates a plurality of armed mode signals on the data

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communications bus. In other words, the pre-warn emulator utilizes the common disarm/arm chirping of factory alarm and keyless entry systems to provide a pre-warn indication. None of the cited prior art reference discloses or fairly suggests this above highlighted feature of the claims.

II. THE REJECTION OVER HWANG '407 IN VIEW OF FLICK '551 OR LEEN ET AL. IS BASED UPON MISAPPREHENDED RATIONALE AND THE BOARD HAS OVERLOOKED CLEAR TEACHINGS AWAY FROM THE SELECTIVE COMBINATION OF HWANG '407 IN VIEW OF FLICK '551 OR LEEN ET AL.

The Board rejected independent Claims 1, 17, and 23 over Hwang '407 in view of Flick '551 or Leen et al. Hwang '407 discloses a prealarm system for an anti-theft alarm where a signal from a displacement/vibration detector is picked up by a one-shot timer circuit. If no other activation signal is picked up after the first signal is received, a main control alarm circuit is activated for driving a siren circuit to generate a short chirp sound as an audible warning, and a flashing circuit to flash a light for a preset period of time as a visible warning. If the number of activation signals received subsequent to the first are greater than a predetermined threshold number, or the activation signal continues for a predetermined period of time, the main control alarm circuit is activated for driving: the siren circuit to give a normal audible signal alarm, and the

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flashing circuit for flashing a light and a dome light control to provide visible signals.

The Board correctly notes that Hwang '407 fails to disclose a data communications bus extending throughout the vehicle and carrying data and address information thereover and the pre-warn emulator generating a signal on this same data communications bus, as recited by independent Claim 1, for example. The Board looks to either Flick '551, cited by Appellant in the present application, or Leen et al. to supply this significant deficiency of Hwang '407. Flick '551 discloses a vehicle security system in a vehicle including a data communications bus connecting a plurality of vehicle devices. Leen et al. discloses a controller area network (CAN) within a vehicle.

Appellant submits that the Board has misapprehended the disclosures of Hwang '407, Flick '551, and Leen et al. Appellant submits that the Board's proposed combination fails to teach a pre-warn emulator for generating at least one signal on the vehicle data communications bus extending throughout the vehicle and carrying data and address information responsive to said pre-warn vehicle security sensor so that the alarm controller causes the alert indicator to generate an emulated pre-warn indication different from the alarm indication, as recited by independent Claim 1, for example.

In formulating its rejection, the Board contended that Hwang '407 discloses a pre-warn emulator generating a signal

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while Flick '551 and Leen et al. each disclose the data communications bus and motivation to replace hardwired connections with a data communications bus. Appellant respectfully submits that the Board is mischaracterizing the claimed invention by grossly oversimplifying the claimed invention by equating it to Hwang '407 plus a data communications bus.

None of the cited prior art references discloses a pre-warn emulator generating a signal on a data communications bus responsive to the pre-warn vehicle security sensor so that the alarm controller causes the alert indicator to generate an emulated pre-warn indication different from the alarm indication, as recited in the independent claims. In other words, the pre-warn emulator plays technological puppet master and causes the alarm controller to operate beyond its normal capabilities, i.e. "an alarm controller interfacing with the data communications bus extending throughout the vehicle and carrying data and address information and when in an armed mode causing the alert indicator to generate an alarm indication responsive to a high security threat level," as recited by independent Claim 1, by pulling the "strings" of the alarm controller, i.e. generating signals on the data communications bus. Appellant submits that this feature of the claimed invention represents a substantial and challenging modification of the data communications bus of Flick '551 or Leen et al.

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Appellant submits that the Board has misapprehended and overlooked a clear teaching away from swapping out the output lines of Hwang '407 for the data communications bus of Flick '551 or Leen et al. As noted in the claims, the alarm controller interfaces with the data communications bus extending throughout the vehicle and carrying data and address information. As the Board stated, "replacing wiring harnesses in vehicles with data communications buses reduces weight, costs, and complexity... [and] would have been well known in the vehicle manufacturing industry [] since the early 1980s." Appellant readily acknowledges that a vehicle comprising a data communications bus was not patentable as of the filing date of the present application. Nonetheless, Appellant has not claimed such an invention but has differently claimed a pre-warn emulator generating signals on this data communications bus so that the alarm controller causes the alert indicator to generate an emulated pre-warn indication different from the alarm indication.

More particularly, and as would be appreciated by the person of ordinary skill in the art, the data and address information carried by the data communications bus of the claimed invention is typically proprietary to each vehicle manufacturer. To the person of ordinary skill in the art, this renders emulation on the data communications bus into a rather difficult task. More so, as recited in independent Claim 23, if the person of ordinary skill in the art desires to "upgrade[e] a vehicle security system in a vehicle comprising a data communications bus

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extending throughout the vehicle" to "interface[e] a pre-warn emulator with the vehicle data communications bus [] and carry[] data and address information which, responsive to the pre-warn vehicle security sensor, generates [a] signal on the data communications bus ... so that the alarm controller causes the alert indicator to generate an emulated pre-warn indication different from the alarm indication," the person of ordinary skill in the art must decode and reverse engineer the data and address information carried by the data communication bus. In other words, the person of ordinary skill in the art would need to decode the language of the particular data communications bus to permit "speaking" on the data communications bus by the pre-warn emulator. Appellant submits that because of this tedious, onerous, and substantial task required to implement the teachings of Hwang '407 into the data communications bus of either Flick '551 or Leen et al., the person of ordinary skill in the art would be taught away from such a modification/combination of the prior art, which the Board has arrived at based upon Appellant's own disclosure.

Furthermore, Appellant submits that the Board's stated motivation to combine the pre-warn features of Hwang '407 with Flick '551 or Leen et al. is improper. Appellant submits that the Board's stated motivation amounts to a conclusory statement of obviousness. The Supreme Court of the United States has deemed such conclusory statements of obviousness to be insufficient in stating a rationale to combine prior art

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references. See *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007), quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) ("Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.") (Emphasis added).

Hence, independent Claim 1 is patentable over Hwang '407 in view of Flick '551 or Leen et al. Independent Claims 17 and 23 are similar to Claim 1, include similar recitations, were rejected similarly, and are patentable over Hwang '407 in view of Flick '551 or Leen et al. for similar reasoning.



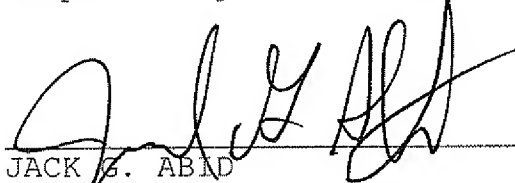
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III. CONCLUSION

In view of the arguments present above, Appellant respectfully submits that all of the claims are patentable over the prior art. Appellant, therefore, respectfully requests that the Board reconsider and reverse the earlier unfavorable decision of the Board.

Respectfully submitted,



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